

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mac Muir	Team: Squad #6	CCRB Case #: 202002202	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/17/2020 9:15 PM	Location of Incident: § 87(2)(b)	Precinct: 52	18 Mo. SOL 9/17/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 03/18/2020 12:26 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 03/18/2020 12:26 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Christophe Montera	07819	961961	052 PCT
2. POM Anthony Saline	12924	962081	052 PCT
3. POM Garry Tuma	20648	959317	052 PCT
4. SGT Nakwan Brathwaite	01656	948692	052 PCT
5. POF Genesis Perezvilomar	25976	965410	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Saline	Abuse: At § 87(2)(b) in the Bronx, Police Officer Anthony Saline stopped § 87(2)(b)	§ 87(2)(b)
B.POM Anthony Saline	Abuse: At § 87(2)(b) in the Bronx, Police Officer Anthony Saline frisked § 87(2)(b)	§ 87(2)(b)
C.POM Anthony Saline	Abuse: At § 87(2)(b) in the Bronx, Police Officer Anthony Saline searched § 87(2)(b)	§ 87(2)(b)
D.POM Anthony Saline	Abuse: At § 87(2)(b) in the Bronx, Police Officer Anthony Saline failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
E.POM Christophe Montera	Abuse: At § 87(2)(b) in the Bronx, Police Officer Christopher Montera failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
F.POM Garry Tuma	Abuse: At § 87(2)(b) in the Bronx, Police Officer Garry Tuma failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
G.POM Christophe Montera	Abuse: At § 87(2)(b) in the Bronx, Police Officer Christopher Montera refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
H.POM Anthony Saline	Abuse: At § 87(2)(b) in the Bronx, Police Officer Anthony Saline refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
I.POM Anthony Saline	Abuse: At § 87(2)(b) in the Bronx, Police Officer Anthony Saline refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
J.SGT Nakwan Brathwaite	Abuse: At the 52nd Precinct stationhouse, Sergeant Nakwan Brathwaite did not process § 87(2)(b)'s complaint regarding officers.	
K.POF Genesis Perezvilomar	Abuse: At the 52nd Precinct stationhouse, Police Officer Genesis Perezvilomar did not process § 87(2)(b)'s complaint regarding officers.	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

Case Summary

On March 18, 2020, § 87(2)(b) filed the following complaint via the CCRB website, and § 87(2)(b) filed a duplicate complaint via the Call Processing System.

On March 17, 2020, at approximately 9:15 p.m., § 87(2)(b) and his sister, § 87(2)(b) walked in the vicinity of § 87(2)(b) in the Bronx. Police Officers Anthony Saline, Christopher Montera, and Gary Tuma of the 52nd Precinct drove past. PO Saline made a U-turn, and the three officers exited the vehicle. PO Saline told § 87(2)(b) to stop (**Allegation A: Abuse of Authority: § 87(2)(g)**). PO Saline frisked § 87(2)(b) (**Allegation B: Abuse of Authority: § 87(2)(g)**) and allegedly searched his pockets (**Allegation C: Abuse of Authority: § 87(2)(g)**). PO Saline, PO Montera, and PO Tuma did not offer business cards to § 87(2)(b) (**Allegations D, E, and F: Abuse of Authority: § 87(2)(g)**). § 87(2)(b) said, “Can I get your badge number?” in the direction of PO Montera and PO Saline. PO Montera ignored her, and PO Saline replied, “I already gave it to him.” Neither officer provided their shield number (**Allegations G and H: Abuse of Authority: § 87(2)(g)**). § 87(2)(b) asked PO Saline for his shield number, and he did not provide it (**Allegation I: Abuse of Authority: § 87(2)(g)**). The officers left without issuing summonses or making arrests.

§ 87(2)(b) and § 87(2)(b) went to the 52nd Precinct stationhouse, where Sgt. Nakwan Brathwaite and PO Genesis Perez-Vilomar of the 52nd Precinct refused to process § 87(2)(b)'s complaint (**Allegations J and K: Abuse of Authority: § 87(2)(g)**). § 87(2)(g), § 87(4-b)

BWC footage (BR 01-03), cell phone footage (BR 04-05), and stationhouse video footage (BR 06-09) were obtained.

Findings and Recommendations

Allegation A – Abuse of Authority: Police Officer Anthony Saline stopped § 87(2)(b)

PO Saline’s BWC (BR 01), PO Tuma’s BWC (BR 02), and PO Montera’s BWC (BR 03) beginning at 0:00 in each video, showed the officers in their vehicle. They exited and approached § 87(2)(b) a black male who wore a camouflage jacket over a black hooded sweatshirt.

PO Saline’s BWC (BR 01), beginning at 0:50, showed PO Saline explain that he stopped § 87(2)(b) because there had been a big fight two blocks away. § 87(2)(b) had been grasping something in his pocket, and he kept looking back at the officers in a narcotics-prone location. PO Saline described this as a “Terry Stop.”

PO Montera’s BWC, at 0:21 (BR 02), showed that § 87(2)(b) appeared close to, if not the same height as PO Saline, who testified that he was 6’1” tall (BR 10).

§ 87(2)(b) testified that he and § 87(2)(b) walked together, without anyone else, from their house to § 87(2)(b)'s parked car. An unmarked vehicle drove past them and the officers inside looked at § 87(2)(b). The vehicle continued to the end of the block and made a U-turn. PO Montera, PO Tuma, and PO Saline pulled alongside them. From the vehicle, PO Saline, the driver, asked § 87(2)(b) where he was going, and he replied that he was going to his sister’s car which was parked around the corner. The officers exited their vehicle and surrounded § 87(2)(b).

§ 87(2)(b) testified that she and § 87(2)(b) walked alone down East 209th Street to her car when the officers exited their vehicle, asked § 87(2)(b) a series of questions, and surrounded him.

PO Saline testified that he drove with PO Tuma and PO Montera as passengers near 209th Street and Decatur Street, when he heard a ‘10-34’ radio notification for an assault in progress near 209th Street and Decatur Street. From what he could remember, the radio notification was about a large group fighting with knives. The call included a specific description that matched the description of § 87(2)(b). Approximately ten minutes after he received this radio notification, two or three blocks from the location where the initial ‘10-34’ call happened, PO Saline observed a large group. He did not remember which block he observed this group on. Initially, he was unable to approximate how many people were in the group. Later in his CCRB interview, he stated that he observed five to ten people. As soon as he observed the group, § 87(2)(b) and § 87(2)(b) split off from the group. § 87(2)(b) had his hand in his right pocket. He matched the description PO Saline had received over the radio. He did not remember if § 87(2)(b) was the only person in the group who fit the description of a black male with a black hoodie. It appeared that § 87(2)(b) held an “L-shaped” object like a knife that was semi-open. The way § 87(2)(b) grasped it, it appeared he was closing a knife in his pocket. PO Saline later touched the object and felt that it was a cell phone or a hairbrush. PO Saline did not discuss these observations with PO Montera or PO Tuma. As the officers drove past § 87(2)(b) he looked over his shoulder toward the officers and walked as though he was trying to get away from them. PO Saline turned around and drove back to him. Approximately a half-block from where PO Saline initially observed § 87(2)(b) he rolled down his window and asked § 87(2)(b) to stop. He, PO Tuma, and PO Montera exited the vehicle and stood next to § 87(2)(b).

PO Tuma testified that he observed § 87(2)(b) on the street. He did not remember what § 87(2)(b) wore, but he fit the description of an individual from a radio notification. PO Tuma could not recall where he first observed § 87(2)(b) who had a “suspicious bulge” in his pocket. PO Tuma could not recall anything about the bulge, or where § 87(2)(b)’s hands were relative to the bulge. The details of this observation were reflected in a stop report. As the officers drove past § 87(2)(b) he continuously looked at them. PO Saline and PO Montera said they noticed the § 87(2)(b). PO Saline made a U-turn and parked next to § 87(2)(b). They exited the vehicle and approached § 87(2)(b).

PO Montera testified that the officers received a radio notification about multiple people involved in an assault. They received a description of one individual, a black male wearing a black sweatshirt and black pants. He did not remember whether any weapons were used during this assault. Driving up 209th Street, PO Montera observed a black male individual, § 87(2)(b) with a black sweatshirt and black pants walking with § 87(2)(b). As they drove past, PO Saline told PO Montera and PO Tuma that § 87(2)(b) grabbed something toward the front of his right pocket. PO Montera did not observe this. § 87(2)(b) kept looking back at the officers. PO Saline made a U-turn and drove back to § 87(2)(b).

PO Montera and PO Tuma participated in this stop, but because PO Saline was the vehicle operator, because he independently made these observations, and because he made a U-turn to stop § 87(2)(b) without discussing his decision with the other officers, this allegation is pleaded solely against him.

Event #§ 87(2)(b) noted that there was a ‘10-34’ assault at 207th Street and Bainbridge Avenue in the Bronx involved eight to ten assailants. No weapons were involved. The assailants were black, white, and Hispanic, 5’6” to 5’8” tall, 14 to 20 years old, and wore black hoodies. The white male had curly hair.

The radio notifications (BR 12) were consistent with the information listed in the Event. Neither PO

Saline, PO Tuma, nor PO Montera called the 911 dispatcher to request additional information about the alleged assailant.

The Stop Report (BR 13), prepared by PO Saline, noted that the officers were canvassing the area regarding a '10-34', the subject being an approximately 5'8" tall black male wearing a black hoodie. The call was anonymous. The officers observed an individual who matched the description walking away from the location where the '10-34' took place. The individual appeared to be nervous, out of breath, and continuously looked over his shoulder while grasping a hard 'L-shaped' object in his pocket believed to be a knife. Upon approach of officer, the individual became irate toward officers. His waistband area was frisked regarding the hard object believed to be a knife, with negative results. The object was a cell phone with a case. The reason for the stop was explained and the subject was offered a card and refused.

§ 87(2)(b) was 26 years old at the time of the incident. He is a 5'10" tall Hispanic male with a dark skin complexion.

The weather report from March 17, 2020, at 9:51 p.m., showed that it was 51 degrees and overcast in Bronx County (BR 14).

PO Saline testified that he observed § 87(2)(b) and § 87(2)(b) walk away from a group of five to ten individuals. However, given that this substantive information was not reflected on the Stop Report, and that this testimony was not consistent with the testimony of § 87(2)(b), PO Tuma, and PO Montera, the investigation did not credit that PO Saline observed § 87(2)(b) and § 87(2)(b) walk away from a group of five to ten people.

Although PO Saline testified that he remembered that the group of assaulters was fighting with knives, this was not supported nor reflected in either the Event or the Stop Report he generated.

In Terry v. Ohio, 392 U.S. 1 (1968) (BR 15), the court ruled that there was a limited exception to the Fourth Amendment of the United States Constitution, in which officers may seize an individual when they conclude that criminality may be afoot. In order for a stop to be justified, an officer must have a reasonable suspicion that criminal activity is present. A description that is vague and general raises the real possibility that the subject of such suspicion is not the person the informer intended to describe. People v. De Bour, 40 N.Y.2d 210 (1976) (BR 16). A stop may be conducted only when a police officer has an individualized reasonable suspicion that the person stopped has committed, is committing, or is about to commit a felony or Penal Law misdemeanor NYPD Patrol Guide Procedure 212-11 (BR 17). Behavior that is susceptible to an innocuous interpretation, even in a high crime area, is not sufficient to establish reasonable suspicion. People v. Hampton, 200 A.D.2d 466 (1994) (BR 19). The location of a bulge is noteworthy because unlike a pocket bulge which could be caused by any number of innocuous objects, a waistband bulge is telltale of a weapon. People v. Thomas 258 A.D.2d 413 (1999) (BR 20).

PO Saline, PO Tuma, and PO Montera testified that § 87(2)(b) fit the description that they received over the radio. However, this was not correct. The radio notification said that there were eight to ten unarmed assailants, black, white, and Hispanic, from 5'6" to 5'8" tall, from 14 to 20 years old, wearing black hooded sweatshirts. § 87(2)(b) was 5'10" and 26 years old and wore a black hooded sweatshirt underneath a camouflage jacket. Further, § 87(2)(b) was outside of the age range by six years, was two inches taller than the tallest description, and was nearly a quarter mile from where the alleged assault occurred. Given these discrepancies, the investigation determined that the officers did not have reasonable suspicion to believe § 87(2)(b) fit the description. As the officers did not have reasonable suspicion to believe that § 87(2)(b) was

involved in the ‘10-34’ assault, the stop was not permissible under Terry v. Ohio, People v. De Bour, and the NYPD Patrol Guide.

Beyond the radio notification, PO Saline testified that he observed § 87(2)(b) holding an “L-shaped” object in § 87(2)(b)’s jacket pocket, which he believed to be a foldable knife.

As per People v. Thomas, a bulge in someone’s pocket can be caused by any number of objects, and as per People v. Hampton, having one’s hand on one’s pockets on a 51-degree overcast day and looking at an unmarked police vehicle was subject to innocuous interpretation and thus insufficient to establish reasonable suspicion, even though this was a narcotics prone location.

Moreover, it is not a crime to possess a foldable knife in New York City, so any associated suspicion would not have merited a stop.

§ 87(2)(g)

Allegation B – Abuse of Authority: Police Officer Anthony Saline frisked § 87(2)(b)

Allegation C – Abuse of Authority: Police Officer Anthony Saline searched § 87(2)(b)

PO Saline’s (BR 01), PO Montera’s (BR 02) and PO Tuma’s (BR 03) BWCs showed PO Saline place his hand around § 87(2)(b)’s jacket pocket, but it was not clear whether his hand went in. § 87(2)(b) repeatedly says, “This is an illegal search.”

§ 87(2)(b) testified that after he was stopped, PO Saline asked what was in his pockets, and placed his hands into the right and left pocket of § 87(2)(b)’s parka pockets. PO Saline did not recover or remove anything from his pockets.

§ 87(2)(b) testified that PO Saline placed his hands into § 87(2)(b)’s two chest pockets and the two pockets in the bottom of his military camouflage jacket, then patted down the sides of his pant legs.

PO Saline testified that it appeared that § 87(2)(b) held an “L-shaped” object like a knife that was semi-open. The way § 87(2)(b) grasped it, it appeared he was closing a knife in his pocket. As the officers drove past § 87(2)(b) he looked over his shoulder toward the officers and walked as though he was trying to get away from them. PO Saline turned around and drove back to him. Approximately a half-block from where PO Saline initially observed § 87(2)(b) he rolled down his window and asked § 87(2)(b) to stop. He, PO Tuma, and PO Montera exited the vehicle and stood next to § 87(2)(b). PO Saline touched the object and felt that it was a cell phone or a hairbrush. He touched the outside of § 87(2)(b)’s pocket because he believed § 87(2)(b) was in possession of a knife.

PO Tuma testified that PO Saline frisked one of § 87(2)(b)’s pockets. PO Montera testified that PO Saline frisked § 87(2)(b)’s front right pocket, and the front of his waistband.

According to the Stop Report (BR 13), prepared by PO Saline, the officers were canvassing the area regarding a ‘10-34’, the subject being an approximately 5’8” tall black male wearing a black hoodie. Officers observed an individual walking away from the location where the ‘10-34’ took place who matched the description. The individual appeared to be nervous, out of breath, and

continuously looked over his shoulder while grasping a hard ‘L-shaped’ object in his pocket believed to be a knife. Upon approach of officer, the individual became irate toward officers. His waistband area was frisked regarding the hard object believed to be a knife with negative results. The object was a cell phone with a case. The reason for the stop was explained and the subject was offered a card and refused.

§ 87(2)(g)

§ 87(2)(b). As further stated in Allegation A, the 911 call and subsequent radio notifications did not provide any reason to indicate that § 87(2)(b) was armed, nor did it provide a specific description that matched § 87(2)(b) § 87(2)(g)

A frisk requires reasonable suspicion that a person is armed. People v. De Bour, 40 N.Y.2d 210 (1976) (BR 16). The location of a bulge is noteworthy because unlike a pocket bulge, which could be caused by any number of innocuous objects, a waistband bulge is telltale of a weapon. People v. Thomas 258 A.D.2d 413 (1999) (BR 20). Behavior that is susceptible to an innocuous interpretation, even in a high crime area, is not sufficient to establish reasonable suspicion. People v. Hampton, 200 A.D.2d 466 (1994) (BR 19).

§ 87(2)(g)

PO Saline testified that he observed § 87(2)(b) holding an “L-shaped” object in § 87(2)(b) s jacket pocket, which he believed to be a foldable knife. § 87(2)(g)

§ 87(2)(b). In addition, § 87(2)(b) wore a camouflage jacket, a pattern of clothing designed to disguise appearance, that made it less likely PO Saline might have distinguished an object in his pocket. § 87(2)(g)

§ 87(2)(g)

Allegation D – Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Anthony Saline failed to provide § 87(2)(b) with a business card.

Allegation E – Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Christopher Montera failed to provide § 87(2)(b) with a business card.

Allegation F – Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Garry Tuma failed to provide § 87(2)(b) with a business card.

PO Saline’s BWC (BR 01), beginning at 2:10 into the video, PO Saline said that § 87(2)(b) was free to go. § 87(2)(b) walked away. When § 87(2)(b) was approximately 15 feet away, PO Saline said, “Would you like a card?” His voice was so low that it did not appear to get § 87(2)(b)

§ 87(2)(b)'s attention. Although § 87(2)(b) did not react to PO Saline, he turned toward PO Montera and started to speak. PO Saline turned back to his vehicle, said, "You're on body-worn camera," as if to himself, and turned off his BWC. He did not interact with § 87(2)(b) any further. He did not provide a business card.

PO Montera's BWC (BR 02), beginning at 2:05 into the video, showed § 87(2)(b) walk away from the officers. As § 87(2)(b) was approximately five to ten feet away from him, PO Montera said, "You want a card?" PO Montera turned away and quickly added, "No? Okay." The footage did not show him interact with § 87(2)(b) again.

PO Tuma's BWC (BR 03), beginning at 2:05 into the video, showed § 87(2)(b) walk away from the officers. PO Tuma's camera did not show § 87(2)(b). PO Tuma said, "You want a card? No? Alright." His voice was so low that it did not appear to get § 87(2)(b)'s attention. § 87(2)(b) did not turn toward PO Tuma. PO Tuma got into the police vehicle and repeatedly called § 87(2)(b) ignorant.

§ 87(2)(b) testified that he did not receive a business card from any officer. No officers identified themselves or offered a business card.

§ 87(2)(b) testified that none of the officers provided a business card to § 87(2)(b).

PO Saline testified that he offered § 87(2)(b) a business card, and that in response, § 87(2)(b) turned back and shook his head.

PO Montera testified that although this was a situation in which he was required to offer a business card, he did not. He did not know why he did not offer a business card, and there was no reason not to. Either PO Saline or PO Tuma offered a business card to § 87(2)(b) who did not look back or acknowledge the offer. He did not know if § 87(2)(b) heard the offer, because he appeared to have "stormed away."

PO Tuma testified that he offered § 87(2)(b) a business card, and § 87(2)(b) walked away without responding to the request. He believed that PO Saline and PO Montera offered business cards as well.

According to New York Administrative Code Law 14-174 (b), the meaning of the term 'law enforcement activity' includes noncustodial questioning of an individual suspected of criminal activity, pedestrian stops, and frisks. During a law enforcement activity, an officer shall offer a business card at the conclusion of such activity that does not result in an arrest or summons (BR 21).

When a member of service interacts with a member of the public and concludes a stop where a reasonable person would not feel free to leave, they must offer a Right to Know business card. NYPD Patrol Guide Procedure 203-09 (BR 22).

To "offer" something, as per Merriam-Webster, means to present it for acceptance or rejection.

The BWC footage showed PO Saline, PO Tuma, and PO Montera each watch § 87(2)(b) walk away from them. When § 87(2)(b) was approximately 15 feet away, they said "Would you like a card?" or "You want a card?", but their voices were so low that none of their statements appeared to be meaningful attempts to get § 87(2)(b)'s attention. Based on the video footage, § 87(2)(b) did not hear PO Saline, PO Montera, or PO Tuma ask if he would like "a card." Although PO

Montera said, “You want a card?”, he testified that he did not offer a business card.

§ 87(2)(g)

Allegation G – Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Christopher Montera refused to provide his shield number to § 87(2)(b)

Allegation H – Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Anthony Saline refused to provide his shield number to § 87(2)(b)

Allegation I – Abuse of Authority: At § 87(2)(b) in the Bronx, Police Officer Anthony Saline refused to provide his shield number to § 87(2)(b)

PO Montera’s BWC (BR 02), beginning at 2:00, showed PO Saline tell § 87(2)(b) that he was free to go. PO Montera turned back toward his vehicle and faced § 87(2)(b) who looked at him and stated, “Can I get your badge number?” PO Montera immediately turned off his BWC.

PO Tuma’s BWC (BR 03), beginning at 2:10, showed § 87(2)(b) walk away from the officers. § 87(2)(b) requested PO Montera’s badge number. PO Saline replied, “I just gave it to him.” § 87(2)(b) replied, “No. No. I need it,” then PO Tuma turned off his BWC. His footage, which captured the entirety of his interactions with § 87(2)(b) did not show any officer providing their shield number.

PO Saline’s BWC (BR 01) was turned off before the events depicted in PO Montera’s and PO Tuma’s videos.

§ 87(2)(b) testified that as the officers reentered their vehicle, he approached their vehicle and asked PO Saline for all the officers’ shield numbers, not their names. PO Saline replied that he had already provided him with the officers’ shield numbers. This was supported by the video footage. PO Montera and PO Tuma were silent. § 87(2)(b) requested their shield numbers again. PO Saline drove away, nearly hitting § 87(2)(b) in the process. As they drove away, § 87(2)(b) requested the officers’ information, but § 87(2)(b) could not remember the details of this request.

§ 87(2)(b) testified that PO Tuma and PO Montera reentered the vehicle. PO Saline stood outside, and she asked him for his shield number. PO Saline replied that he already provided his shield number to § 87(2)(b). § 87(2)(b) asked § 87(2)(b) if PO Saline had already provided his shield number. § 87(2)(b) replied that he had not, and then he requested PO Saline’s shield number. PO Saline entered the vehicle and drove approximately one foot from § 87(2)(b) as she got out of the way. None of the officers provided their shield numbers. At the 52nd Precinct stationhouse, Sgt. Brathwaite told her to take down PO Saline and PO Montera’s shield numbers from “Cop of the Month” signs on the wall.

PO Saline testified that he did not recall § 87(2)(b) or § 87(2)(b) requesting his shield number. He did not know if § 87(2)(b) requested other officers’ shield numbers.

PO Montera testified that he believed that § 87(2)(b) asked for all the officers’ names and shield numbers as they were getting into the vehicle. PO Montera believed that he verbally stated his name and shield number. He did not remember the other officers providing their names or shield

numbers. He did not believe § 87(2)(b) requested officers' shield numbers. § 87(2)(b) stood in the street as PO Saline drove on. He heard that after the incident, § 87(2)(b) and § 87(2)(b) recognized PO Montera from the 'Cop of the Month' sign in the precinct stationhouse.

PO Tuma did not remember if § 87(2)(b) or § 87(2)(b) asked for his shield number or any other officers' shield number. He did not remember if any officer provided their shield number. PO Tuma did not offer his own shield number. § 87(2)(b) jumped in front of the vehicle and PO Saline drove around her.

§ 87(2)(g)

§ 87(2)(b) and § 87(2)(b) testified that following this incident, they went to the 52nd Stationhouse to file a complaint and obtain the names of the officers who stopped § 87(2)(b). They, along with § 87(2)(b)'s mother, § 87(2)(b), repeatedly asked for officers' names, and were only able to identify them once they saw PO Saline and PO Montera's names on the wall listed as "cops of the month."

Surveillance footage from the 52nd Precinct stationhouse (BR 06), beginning at 26:00, showed § 87(2)(b) walk to the wall and point at two images as if identifying the officers. She appeared to take several photographs of the wall.

Members of service must courteously and clearly state their rank, name, shield number and command, or otherwise provide them, to anyone who requests they do so. NYPD Patrol Guide 203-09 (BR 22).

§ 87(2)(b) testified that he requested all three officers' shield numbers from PO Saline, who replied that he had already provided this information. PO Saline testified that he did not recall if § 87(2)(b) requested his shield number. § 87(2)(b) testified that she asked PO Saline for his shield number, and PO Montera's BWC depicted her ask, "Can I get your badge number?" The footage showed PO Saline reply, "I just gave it to him." BWC footage that captured the entirety of the incident up to that point did not show PO Saline provide his shield number. Although the Patrol Guide does not require PO Saline to provide his fellow officers' shield numbers, he is required to provide his own shield number upon request. § 87(2)(g)

§ 87(2)(b) testified that she requested all the officers' shield numbers. PO Montera testified that he "believed" that § 87(2)(b) asked for all the officers' names and shield numbers. PO Montera's BWC showed § 87(2)(b) look directly at PO Montera and ask, "Can I get your badge number?" PO Montera testified that he "believed" that he replied by verbally providing his name and shield number. § 87(2)(b) testified that at that moment, PO Montera was silent, and he did not provide his shield number.

The footage did not capture the officers providing their shield numbers and showed § 87(2)(b) requesting officers' shield numbers. PO Saline did not recall if he was asked, and PO Montera "believed" that he provided his name and shield number. Following this incident, § 87(2)(b) and § 87(2)(b) immediately traveled to the 52nd Precinct stationhouse, where they sought to identify the officers involved. § 87(2)(g)

§ 87(2)(g)

Allegation J – Abuse of Authority: At the 52nd Precinct stationhouse, Sergeant Nakwan Brathwaite did not process § 87(2)(b)'s complaint regarding officers.

Allegation K – Abuse of Authority: At the 52nd Precinct stationhouse, Police Officer Genesis Perez-Vilomar did not process § 87(2)(b)'s complaint regarding officers.

As Sgt. Brathwaite and PO Perez-Vilomar were assigned as desk sergeant and telephone-switchboard operator, respectively, and precisely fit the descriptions provided by § 87(2)(b) and § 87(2)(b) these allegations are pleaded against them.

Surveillance footage from the 52nd Precinct stationhouse (BR 06), beginning at 17:00, showed § 87(2)(b) and § 87(2)(b) enter the stationhouse, where § 87(2)(b) appeared to take down a phone number and then leave. At 18:10 into the video, § 87(2)(b) returned and spoke with an officer. At 19:35, the hands of the officer speaking with them were depicted on video. The hands were dark brown. At 24:27, § 87(2)(b) § 87(2)(b)'s mother, entered the stationhouse. At 34:58, § 87(2)(b) and § 87(2)(b) left together.

§ 87(2)(b) testified that after he was stopped, he went directly to the 52nd Precinct stationhouse with § 87(2)(b). He asked an individual at the front desk, PO Perez-Vilomar, how he could file a complaint against the officers. She told him to call 311. § 87(2)(b) left, and then returned with his mother, § 87(2)(b). § 87(2)(b) repeatedly asked to file a complaint. PO Perez-Vilomar, and Sgt. Brathwaite, who sat behind her, both told him to call the number on a board in the stationhouse. § 87(2)(b) left and called 311.

§ 87(2)(b) testified that at the 52nd Precinct stationhouse, § 87(2)(b) told PO Perez-Vilomar about the previous incident. She told him to call the number for the CCRB, and that there was nothing they could do at the precinct. § 87(2)(b) said that he wanted to make a report at the stationhouse and asked to speak to a supervisor. Sgt. Brathwaite identified himself as a supervisor. § 87(2)(b) described the incident to him. Sgt. Brathwaite told § 87(2)(b) and § 87(2)(b) that there was nothing that they could do and that he should call the number on the wall. PO Perez-Vilomar told § 87(2)(b) that he would be assigned an investigator.

§ 87(2)(b) testified that she did not hear § 87(2)(b) or § 87(2)(b) ask to file a complaint. Instead, they both asked what number they could call to file a complaint. Two officers pointed to a number told them to call that number.

PO Perez-Vilomar testified that she did not remember this incident. She was presented with the stationhouse footage of the incident, and it did not refresh her recollection. She was assigned as the telephone switchboard (T/S) operator during this incident. As she viewed the surveillance footage, she noted that § 87(2)(b) spoke toward the area where the T/S operator and desk sergeant normally sat. Normally, if someone were to come into the stationhouse, PO Perez-Vilomar could refer a civilian to any of the numbers in the precinct stationhouse, or to the desk officer. She did not know what the desk officer would do with the complaint, because it was their job to handle complaints.

Sgt. Brathwaite testified that he did not remember this incident. He was presented with the

stationhouse footage of the incident, and it did not refresh his recollection. He was the assigned desk sergeant when this incident took place. Sgt. Brathwaite was required to provide a civilian complaint form as a primary option, and to provide a phone number if a complainant could not complete the form at the stationhouse. Sgt. Brathwaite denied that he directed civilians to call 311. He denied declining to provide any civilians with a complaint form.

Sgt. Brathwaite was the assigned desk sergeant when this incident took place and was the only black male supervisor working in the 52nd Precinct during this incident (BR 25, 26).

Complaints against uniformed members of service may be made at any patrol precinct. NYPD Patrol Guide Procedure 207-31 (BR 23). When a person is present in a Department facility and wishes to make a statement as a witness to an incident involving a civilian complaint, an officer should interview the witness, provide them with a copy of a Civilian Complaint Report (PD313-154) to be prepared in the civilian's own handwriting. NYPD Patrol Guide Procedure 207-30 (BR 24).

§ 87(2)(b) and § 87(2)(b) all testified that Sgt. Brathwaite and PO Perez-Vilomar told § 87(2)(b) to call a phone number to file a complaint against the officers who stopped him. Surveillance footage showed the three of them inside the stationhouse. Sgt. Brathwaite and PO Perez-Vilomar did not remember this incident. § 87(2)(b) did not file a complaint at the stationhouse. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 27).

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 28).
- PO Saline has been a member-of-service for five years and has been a subject of 22 CCRB allegations in nine prior complaints, none of which were substantiated.
- PO Tuma has been a member-of-service for six years and has been a subject of 16 CCRB allegations in seven prior complaints, none of which were substantiated.
- PO Montera has been a member-of-service for five years and has been a subject of seven CCRB allegations in five prior complaints, none of which were substantiated.
- Sgt. Brathwaite has been a member-of-service for 11 years and has been a subject of five CCRB allegations in four prior complaints, none of which were substantiated.
- PO Perez-Vilomar has been a member-of-service for three years and has been a subject of one CCRB allegation in one complaint, which was not substantiated.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- § 87(2)(b)
- As of March 29, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (BR 31).

Squad 6

Investigator: Mac Muir Supervising Investigator Muir 03/09/22
Signature Print Title & Name Date

Squad Leader: Jessica Peña IM Jessica Peña 3/14/2022
Signature Print Title & Name Date

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____